

Minutes
WARRICK COUNTY AREA BOARD OF ZONING APPEALS
Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
November 22, 2021 at 6:00 P.M.

PLEDGE OF ALLEGIANCE:

MEMBERS PRESENT: Mike Moesner, Chairman; Jeff Willis, Terry Dayvolt, Doris Horn, Paul Keller, and Jeff Valiant.

Also present was Morrie Doll, Attorney, Molly Barnhill, Executive Director, and Kim Kaiser, staff.

MEMBERS ABSENT: Mike Winge

MINUTES: Upon a motion made by Doris Horn and seconded by Jeff Valiant the Minutes of the last regular meeting held October 25, 2021 were approved as circulated.

Chairman Moesner explained the Rules of Procedure.

SPECIAL USES:

BZA-SU-21-31

APPLICANT& OWNER: Mark T. Burgard

PREMISES AFFECTED: Property located on the S side of Sleepy Hollow Rd approximately 0' SW of the intersection formed by Sleepy Hollow Rd. and Tarrytown Rd., Lot number 9 in Rustic Hills Part 1 Ohio Twp. 5233 *Sleepy Hollow Rd.*

NATURE OF THE CASE: Applicant requests a Special Use, SU 12, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow 144 s.f. within an existing sfd to be used for an Internet Based Firearm Sales in an "A" Agricultural Zoning District. (*Advertised in The Standard on November 11, 2021*)

Mark T. Burgard was present.

Chairman Moesner asked for a staff report.

Mrs. Barnhill stated he did send notice to the adjacent property owners and we have all of the return receipts except for two. She said one being from Billy and Bonita Duley and the other one being Kyle and Jennifer Wolfe. She stated they were sent properly and we do have the receipts. She said the existing land use is a single-family dwelling. She said the surrounding zoning and land use in all directions is "A" Agricultural with single-family dwelling in Rustic Hills Parts One and Two and Hamby Subdivision. She stated there is no flood plain. She said they have an existing

drive onto Sleepy Hollow Road. She said their statement in the application says they are a *home based FFL executing online sales only. No foot traffic. Please see attached letter, which is in your packet. She asked do you want the letter read.*

Chairman Moesner stated I think we probably need to put it in the record.

Attorney Doll responded yes.

Mrs. Barnhill read *To Whom It May Concern: My intended business activity requires that I obtain a Federal Firearms License (FFL) for manufacturers (Type 07FFL) even though no actual manufacturing activity will occur at this location. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) regulates the firearms industry and issues FFLs. The ATF defines "manufacturing" very differently than the common use of the term. Typically, "manufacturing" includes machinery and tools to create a finished product out of raw material- this will not happen at this location. The ATF, however, defines "manufacturing" to include even occasional and minor assembly steps to an otherwise finished product. Also, if a firearm is completely manufactured (in the common sense of the term) at a different location by a different company (often in another state entirely) with my company's name on the firearm, then a manufacturer's FFL is required by the ATF for tracking and record-keeping purposes. Again, no true manufacturing will occur at this location. No business activity will require actual manufacturing space, or require my business to be located within a district zoned for manufacturing. Instead, my business activity which requires this special manufacturer's FFL can be conducted without tools at a typical office desk. I am writing to seek approval for my proposed business activity at this location. The ATF will likely contact you or your office in connection with my FFL application to confirm that my proposed business activity is, in fact, permitted at this location. If you have any questions, please do not hesitate to ask. Kind regards, Mark T. Burgard, PhD Principal, Proliator, LLC.*

Chairman Moesner asked have we been contacted by the ATF.

Mrs. Barnhill replied no, not yet.

Chairman Moesner stated I guess maybe they will wait until they get a response or something, approval of the business.

Mark Burgard stated they haven't contacted me either so I think it is just a backlog.

Chairman Moesner stated I think it might just be behind a little too. He asked will you be receiving any merchandise there at the home and then turn around and send back out.

Mark Burgard replied yes, I certainly would be. He stated it would be received there as far as that goes. He said I am not looking at large amounts. He stated most of it I can ship directly to customer itself.

Chairman Moesner asked you are not really looking at anything above like Fed Ex or UPS...

Mark Burgard responded no, not at all. He stated this is completely more of a hobby type of business to augment. He said I have been a firearms trainer for 30 years and this last year and a half, not much of that has happened, so this is just one way to augment that plus actually address a need that my students actually ask for as well.

Chairman Moesner responded okay.

Doris Horn asked so you won't have people coming to your house to pick up any of these.

Mark Burgard replied no, not at all.

Terry Dayvolt asked do you warehouse any...

Mark Burgard responded I do not, no.

Terry Dayvolt said okay.

Mark Burgard stated I might have one or two. He said I have three safes at my house, I have that for proper security purposes, but the idea is not to keep a stock in house. He said put them up for sale and see what I actually have access to, advertise them and if they do sell then I can actually facilitate the order as opposed to me actually having to hold it and carry stock.

Terry Dayvolt asked do you handle any reloading materials there at the house.

Mark Burgard responded I do not.

Terry Dayvolt asked so there is no powder, points, primers, or anything like that.

Mark Burgard replied no, not at all. He said I got out of that years ago.

After ascertaining there were no questions from the Board and no remonstrators for or against the proposal, Chairman Moesner called for a motion.

I, Terry Dayvolt, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.

5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
2. Subject to no identifying or business sign being erected or placed on any site for which the SU 12 has been granted by the Board of Zoning Appeals.
3. Except for the shipment and receipt of goods, products or items necessary for the SU 12, the use shall not be visible from the exterior of the premises and no retail sales.
4. No person or persons may be employed in the SU 12 home occupations at site other than the resident (residents) of the site for which the SU 12 has been granted.
5. Subject to the Special Use not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.

The motion was seconded by Doris Horn and carried unanimously.

Mrs. Barnhill stated Mr. Burgard you can pick up your Special Use Approval on Wednesday.

Mark Burgard responded okay, thank you very much.

Mrs. Barnhill replied you're welcome.

BZA-SU-21-32

APPLICANT: Custom Sign & Engineering, Inc. by Debra Mounts, Sales

OWNER: Community Outreach Ministries, Inc. by Sindy Harris, Vice President

PREMISIS AFFECTED: Property located on the W side of SR 161 approximately 145' S of the intersection formed by SR 161 and Oak St. Tennyson Twp. Pt Lot 5 in Tennyson.

NATURE OF THE CASE: Applicant requests a Special Use, SU 8, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for: a 7' 3" x 3' 5", 24 square foot, electronic message unit in a "C-4" General Commercial Zoning District. (*Advertised in The Standard on November 11, 2021*)

Debra Mounts with Custom Sign and Engineering, Sales, Sindy Harris, Vice President Community Outreach Ministries, Inc., and Anthony Long were present.

Chairman Moesner asked Mrs. Barnhill for a staff report.

Mrs. Barnhill stated we have all of the return receipts from the notice to adjacent property owners. She said the existing land use is directly on this parcel is vacant but they own the Community Outreach Ministry, which is abutting up to this exact lot. She stated the surrounding zoning and land use is to the north, south, and east all zoned "C-4" General Commercial and are either vacant or have commercial buildings. She added to the west is zoned "R-1A" One-family Dwelling and is vacant and "C-4" General Commercial being the Community Outreach Ministry's building. He said there is no flood plain and they have an existing drive onto SR 161. She said the applicant's statement says *We are requesting a Special Use 8 to allow the Community Outreach Center to install a digital sign which would allow them to better share information regarding available programs and events beneficial to the members of the Tennyson community, such as the Neighbors Helping Neighbors Food Bank and the monthly free meals offered at the center.* She stated the application is in order.

Chairman Moesner asked if there was anything to add to the report.

Debra Mounts replied no, that pretty much sums it up. She said it's just trying to get the good word out.

Anthony Long asked may I speak.

Chairman Moesner responded sure.

Anthony Long stated I think the record should reflect that the Community Outreach Ministries is a viable C-3 charitable corporation that has been established in the town of Tennyson as a community service in the form of providing free meals on a once a month basis for community spirit. He said they have a food pantry that they operate on part of the property that is there. He stated they are planning now, the primary mover is Penni Williams who is looking into residential development in the town on an as need basis. He said that is why they were organized and that is why they exist. He stated they hold a 501C3, federal approved charitable organization and is a not for profit corporation. He said I am representing them.

Chairman Moesner responded thank you. He said that is a nice looking sign.

Debra Mounts replied thank you.

After ascertaining there were no questions from the Board and no remonstrators for or against, Chairman Moesner called for a motion.

I, Doris Horn, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.

3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

1. Subject to any required State or Federal Permits.
2. Subject to an Improvement Location Permit being obtained.
3. Subject to any required Building Permits being obtained.
4. Subject to the Special Use not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.
5. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
6. Subject to all public utility easements and facilities in place.
7. Subject to no use of the words, “stop”, “danger”, “look”, or any other word which would confuse traffic.
8. Subject to no revolving beams of light or strobe lights.

The motion was seconded by Jeff Valiant and carried unanimously.

ATTORNEY BUSINESS:

Attorney Doll stated there was none to report.

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Barnhill stated we do have an opening coming up in the office if anybody knows anyone that would like to put in for the position.

Chairman Moesner asked what kind of training is required or what kind of resume or whatever is necessary.

Mrs. Barnhill stated it is all just on the job training. She said we do have a little test that we have them do. She stated it is pretty simple if they can type, spell, and do basic math is what our test is. She said directionally you have to be good with math.

Jeff Valiant asked is it full time or part time.

Mrs. Barnhill stated full time.

Chairman Moesner asked are you going to advertise or just right now word of mouth.

Mrs. Barnhill stated right now just word of mouth. She said I'm not in a huge hurry because I want to find the right person.

Attorney Doll asked is it a Planner 3...Planner 2.

Mrs. Barnhill stated they have changed the position with the last job study and so now it all just planner. She said we have three planners.

Attorney Doll replied okay.

Terry Dayvolt asked who is leaving us.

Mrs. Barnhill stated Glenda Shapker.

Chairman Moesner called for a motion to adjourn.

Jeff Valiant made a motion to adjourn. The motion was seconded by Doris Horn and Terry Dayvolt. The motion carried unanimously and the meeting adjourned at 6:17 p.m.

Mike Moesner, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held November 22, 2021.

Molly Barnhill, Executive Director